

PATENT COOPERATION TREATY

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REC'D 25 FEB 2005

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference		FOR FURTHER ACTION See Form PCT/PEA/416																	
International application No. PCT/EP2004/002849		International filing date (day/month/year) 16.03.2004	Priority date (day/month/year) 04.04.2003																
International Patent Classification (IPC) or national classification and IPC A61K7/16, A61K7/18																			
Applicant UNILEVER N.V.																			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau)</i> a total of sheets, as follows:</p> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No: I and the Supplemental Box. <p>b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																			
<p>4. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/> Box No. I</td> <td>Basis of the opinion</td> </tr> <tr> <td><input type="checkbox"/> Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/> Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/> Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/> Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/> Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/> Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>				<input checked="" type="checkbox"/> Box No. I	Basis of the opinion	<input type="checkbox"/> Box No. II	Priority	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/> Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/> Box No. VI	Certain documents cited	<input type="checkbox"/> Box No. VII	Certain defects in the international application	<input type="checkbox"/> Box No. VIII	Certain observations on the international application
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Date of submission of the demand 24.09.2004		Date of completion of this report 25.02.2005																	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer Menidjel, R Telephone No. +31 70 340-3680																	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/002849

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-13 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

- The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
- This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3-5,9,11
	No: Claims	1,2,6-8,10,12,13
Inventive step (IS)	Yes: Claims	
	No: Claims	1-13
Industrial applicability (IA)	Yes: Claims	1-13
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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Re Item V.

1 The following document is referred to in this communication:

D1 : WO 00/69401 A (COLGATE PALMOLIVE CO) 23 November 2000 (2000-11-23)

2 INDEPENDENT CLAIMS 1,13

2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1,13 is not new in the sense of Article 33(2) PCT.

- Document D1 refers to a process for the manufacture of a toothpaste, said method comprises the preparation of a slurry comprising *substantially all the ingredients* present in said toothpaste, e.g. calcium carbonate as abrasive, humectants, followed by the addition at the end of a thickening mixture (Cf. D1, page 2, lines 12-26; page 3, lines 2-26; page 4, lines 7-17; page 5, lines 1-26; page 6, line 18-page 7, line 5). The subject-matter described in document D1 takes away novelty of present claims 1,2,6-8,10,12,13.

3 DEPENDENT CLAIMS 2, 6-8, 10, 12

Dependent claims 2,6-8,10,12 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

4 DEPENDENT CLAIMS 3-5,9,11

- The remaining subject-matter which is the subject-matter of present claims 3-5,9,11 is not considered inventive for the following reasons (Article 33(1),(3) PCT):

Document D1, which is considered as the closest prior art, describes a process for the manufacture of a toothpaste, said method comprises the preparation of a slurry comprising substantially all the ingredients present in said toothpaste, e.g. calcium carbonate as abrasive, humectants, followed by the addition at the end of a thickening mixture (Cf. D1, page 2, lines 12-26; page 3, lines 2-26; page 4, lines 7-17; page 5, lines 1-26; page 6, line 18-page 7, line 5).

- The problem to be solved by the present application appears to obtain a toothpaste

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composition which can be stored for longer storage period and processed without difficulty (see application, on page 1, line 24-page 2, line 1).

- The solution proposed in the present application is to provide a toothpaste composition comprising the manufacture of a near complete toothpaste composition which can be stored and processed without difficulty until transformation into the final oral composition is required, characterised by the preparation of a slurry which comprises substantially all of the ingredients present in said oral composition followed by the addition of a thickening mixture to form said oral composition (see application, on page 2, lines 1-118).
- The subject-matter of present claims 3-5,9,11 is a matter of normal design procedure and would therefore be an obvious design possibility for the skilled person in order to solve the problem posed. Therefore, no inventive step is present in the subject-matter of present claims 3-5,9,11 (Article 33(1),(3) PCT)).